

MD Code, Art. 28, § 7-116

West's Annotated Code of Maryland

Article 27A to Article 40A

Article 28. Maryland-national Capital Park and Planning Commission

Title 7. Maryland-washington Regional District

§ 7-116. Regulations governing subdivision of land

(a) In exercising the powers granted to it by § 7-115 of this title, the Commission or the governing body of either county may prepare regulations and amendments governing the subdivision of land within the regional district or the respective portions of the regional district within Montgomery or Prince George's County. The regulations and amendments shall be adopted by the respective governing bodies of the counties, with whatever changes they consider appropriate, and shall be effective from the date of adoption or from such other date the governing body designates provided that such adoption does not affect in any manner the administration of the regulations by the Commission or its functions under § 7-115 of this title. In Montgomery County, on the adoption of any subdivision regulation or amendment by the district council, the regulation or amendment shall be delivered within 3 days to the County Executive who within 10 days thereafter shall approve or disapprove the regulation or amendment. If the County Executive disapproves the regulation or amendment, it shall be returned to the council with the reasons for the disapproval stated in writing. The council, by the affirmative vote of 6 members, may enact the regulation or amendment over the disapproval of the County Executive. Failure of the County Executive to act within 10 days constitutes approval of the regulation or amendment. The regulations may provide for (1) the harmonious development of the district; (2) the coordination of roads within the subdivision with other existing planned or platted roads or with other features of the district or with the Commission's general plan or with any road plan adopted or approved by the Commission as part of the Commission's general plan;

(3) adequate open spaces for traffic, recreation, light, and air, by dedication or otherwise, and the dedication to public use or conveyance of areas designated for dedication under the provisions of the zoning and subdivision regulations and for the payment of a monetary fee, in lieu of dedication, not to exceed 5 percent of the total new market value of the land, as stated on the final assessment notice issued by the State Department of Assessments and Taxation, that is the subject of an approved preliminary plan of subdivision to be used by the Commission to purchase open spaces for the use and benefit of the subdivision in cases where dedication would be impractical, provided that when, in the judgment of the Commission, suitable land is not available for acquisition to serve the subdivision from which a fee has been exacted, or if

adequate open space has heretofore been acquired and is available to serve the subdivision, then the Commission may use the fee collected in lieu of dedication to develop or otherwise improve land or recreational facilities that will assist in supplying the overall recreational needs of the subdivision, and further provided that if the subdivision is in a municipality in Prince George's County that is not within the metropolitan district but is within the regional district and when requested by the municipality the mandatory fee in lieu of dedication received by the Commission shall be paid to and used by the municipality either to purchase open space for the use and benefit of the subdivision or to develop or otherwise improve land or recreational facilities that will assist in supplying the overall recreational and open space needs of the subdivision;

(4) the reservation of lands for schools and other public buildings and for parks, playgrounds, highways, roads, mass transit facilities, including busways and light rail facilities, and other public purposes, provided no reservation of land for traffic, recreation or any other public purposes as herein provided shall continue for longer than three years without the written approval of all persons holding or otherwise owning any legal or equitable interest in the property; and provided further that the properties reserved for public use shall be exempt from all State, county, and local taxes during the period; (5) the conservation of or production of adequate transportation, water drainage and sanitary facilities; (6) the preservation of the location of and the volume and flow of water in and other characteristics of natural streams and other waterways, including the establishment of a stormwater management program in Montgomery County which would allow the county to accept monetary contributions, the granting of an easement, or the dedication of land; (7) the avoidance of population congestion; (8) the avoidance of scattered or premature subdivision of land as would involve danger or injury to health, safety or welfare by reason of the lack of water supply, drainage, transportation or other public services or necessitate an excessive expenditure of public funds for the supply of services;

(9) conformity of resubdivided lots to the character of lots within the existing subdivision with respect to area, frontage, and alignment to existing lots and streets; (10) control of subdivision or building (except for agricultural or recreational purposes) in flood plain areas or streams and drainage courses, and on unsafe land areas; (11) preservation of outstanding natural or cultural features and historic sites or structures; or (12) other benefits to the health, comfort, safety or welfare of the present and future population of the regional district. In Montgomery County, the regulations may require the provision of adequate recreational facilities or, in lieu of providing recreational facilities, payment of a fee not exceeding the cost of providing adequate recreational facilities to serve the subdivision.

(b) The regulations may include provisions as to the extent and manner in which (1) roads shall be graded and improved; (2) curbs, gutters, and sidewalks shall be built; (3) water, sewer, and other utility mains, piping, connections, and other facilities shall be installed; and (4) trees shall be planted or conserved as a condition precedent to the approval of a plat. The regulations or practice of the Commission may provide for the tentative approval of a plat previous to improvements and installations; but tentative approval may not be entered on the plat or entitle the plat to filing or record.

In lieu of the completion of the improvements prior to the approval of the plat, the Commission or county may accept a bond with surety to secure the actual construction and installation of the improvements and installations at a time and according to specifications fixed by or in accordance with the regulations. The Commission or county may enforce the bond by all appropriate legal and equitable remedies. The regulations of practice of the Commission may provide for a preapplication procedure and also for subdivision and for tentative or conditional approval or disapproval of the preliminary plans. In Prince George's County, the regulations may provide for the classification of subdivisions as major or minor subdivisions, and may provide for a sketch plan, which in the case of a minor subdivision may be approved by the planning director and filed as the record plat, and in the case of a major subdivision may be required prior to the submission of a preliminary plan of subdivision. In Montgomery County, the regulations also may provide time limits within which action must be taken with regard to preapplication submissions and preliminary plans and they may further provide that if the Commission fails to approve or disapprove the preapplication submissions or preliminary plans within the time limits provided, the preapplication submission or the preliminary plan shall be deemed to have been approved and a certificate to that effect shall be issued by the Commission upon demand. The regulations may provide that the applicant for the Commission's approval may waive this requirement and consent to the extension of the period. The ground of disapproval of the plan shall be stated upon the records of the Commission, and a copy of the record shall be mailed postage prepaid to the last address of record of the applicant.

(c)(1) In Montgomery County, the planning board of the Commission or its designee may enter into regulatory plan enforcement agreements, declarations, easements, covenants, and other instruments, with appropriate persons or entities regarding any action it is authorized to take under this article. The agreement may establish terms and conditions required to implement the action and provide for enforcement and appropriate remedies. A regulatory enforcement agreement, or instrument, is not a development rights and responsibilities agreement as provided in § 7-121 of this article, unless the parties agree that some or all terms of the regulatory enforcement agreement

should be incorporated into a development rights and responsibilities agreement.

(2) The Commission or either county may institute injunction, mandamus, or other appropriate action or proceeding to compel the actual construction and installation of the improvements and conservation of the resources at a time and according to specifications fixed by or in accordance with this article. For this purpose any court of competent jurisdiction has jurisdiction to issue restraining orders and temporary or permanent injunctions or mandamus or other appropriate forms of remedy or relief.

(d) Before adoption of the subdivision regulations or any substantial amendment thereof, a public hearing thereon shall be held by the county council, 30 days' notice of the time and place of which shall be given by one publication in one or more newspapers of general circulation in the regional district in that county.

(e) The Commission shall prepare a plat of any land reserved for public use under the provisions of this section, showing the survey location of the land, names and addresses of the owners, and any other information required for filing among the land records of the county in which the land reserved is located and for its proper indexing. The plat shall comply with all requirements for recording of plats among the land records and be recorded by the clerk of the court of the county in which the land is situated.

(f) The subdivision regulations heretofore adopted by the Commission and now in effect within the respective portions of the regional district in Montgomery and Prince George's counties are deemed to have been adopted in accordance with the provisions of this section. These regulations apply respectively within the portions of the regional district within each county until modified in accordance with this section.

(g) A final action by the Commission on any application for the subdivision of land within 30 days after the action is taken by the Commission, may be appealed by any person aggrieved by the action, or by any person, municipality, corporation or association, whether or not incorporated, which has appeared at the hearing in person, by attorney or in writing to the circuit court for the county which may affirm or reverse the action appealed from, or remand it to the Commission for further consideration. When an appeal is filed the procedures described in § 8-105(b) of this article shall be applicable to the Commission and other parties as is appropriate.

(h) (1) (i) In addition to all other remedies provided by law, in Montgomery County, the district council may authorize the planning board to impose civil monetary fines and penalties and, when the public health, safety, or welfare are threatened, issue stop work orders for violations described in item (ii) of this subparagraph.

(ii) This subsection applies to violations of:

1. Titles 7 and 8 of this article;
2. Montgomery County subdivision regulations and zoning ordinances;
3. Any laws or regulations which the Commission or the planning board is exclusively authorized to administer; or
4. Any decision made by the Commission or planning board under its authority.

(2) A fine, not to exceed \$500, may be imposed for each violation. The district council may establish a schedule of fines for each violation and may adopt procedures, consistent with this section, for imposing and collecting those fines. Each day any violation continues shall constitute a separate offense.

(3) The district council may provide that the planning board may enforce the imposition of fines and penalties in a manner consistent with the process requiring certain notification and hearing under Article 66B, § 7.02 of the Code. The imposition of fines and penalties under this subsection may not be subject to an appeal to the Board of Zoning Appeals.

(4) The district council may provide that the planning board, through counsel, may prosecute violations for which civil monetary fines or penalties are imposed.

(5) A violation of a local law implementing the State Forest Conservation Law shall be enforced in accordance with those laws and not in accordance with this subsection.

Amended by Acts 1995, c. 562, § 1, eff. Oct. 1, 1995; Acts 2000, c. 61, § 6, eff. April 25, 2000.